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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/549,503	09/14/2005	Hideki Uchida	70404.73/ok	7689
54072	7590	10/10/2007	EXAMINER	
SHARP KABUSHIKI KAISHA C/O KEATING & BENNETT, LLP 8180 GREENSBORO DRIVE SUITE 850 MCLEAN, VA 22102			BEN, LOHA	
ART UNIT		PAPER NUMBER		
2873				
NOTIFICATION DATE		DELIVERY MODE		
10/10/2007		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

JKEATING@KBIPLAW.COM  
uspto@kbiplaw.com

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/549,503	UCHIDA, HIDEKI	
	Examiner Loha Ben	Art Unit 2873	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 14 September 2005.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 45-88 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) 74-88 is/are allowed.

6) Claim(s) 45-49,51-62,66-70,72 and 73 is/are rejected.

7) Claim(s) 50,63-65 and 71 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 0905,0306,0906

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) Notice of Informal Patent Application  
6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Specification***

The disclosure is objected to because of the following informalities: Page 85, on line 3, after "substrate", "1" should be – 4 --; page 88, on line 17, "1" should be – 4 --; page 89, on line 2, "1" should be – 4 --; and page 112, on line 13, "1" should be – 2 --.

Appropriate correction is required.

### ***Claim Objections***

Claim 59 is objected to because of the following informalities: on line 2, before "are", "layer" should be – layers --.

Appropriate correction is required.

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 45-48, 67-70, 72 and 73 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 70 and 72-76 of copending Application No. 10/549,584 ('584). Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 70 of '584 calls for a display system which comprises a display device and a dimming device, wherein this dimming device, as is noted, is the dimming device of claim 67 and 68 of the present case. Therefore, the dimming device in question can be used with a device other than the display device, such as a projection or illumination device depending on intended applications. Claims 68-70 and 72 of the present case are the same as claims 72-75 of '584. Regarding claim 73 of the present case, it is noted, the content of which is an obvious modification of claims 70 and 76 of '584 based on a similar explanation as above. With regard to claims 45-49, 51-55, 58-62 and 66 of the present case, it is noted, the content of which is an obvious modification of claims 70, 72-81 and 83-88 of '584, considering the explanation similar to the one given above, and with further indication that the dimming layer and the conversion layer of claims 70, 72-81 and 83-88 of '584 are the respective equivalents of first and second layers of claims 45-49, 51-55, 58-62 and 66 of the present case due to their respective functions recited. Finally, for similar reasons as above, claims 45, 46, 51-62 and 66 of the present case are an obvious modification of claims 54 and 56-69 of '584.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

**Allowable Subject Matter**

Claims 74-88 are allowable.

Claims 50, 63-65 and 71 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Loha Ben whose telephone number is (571) 272-2323. The examiner can normally be reached on M-SAT, generally between 12:00 p.m to 8:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Mack, can be reached on M-F, at (571) 272-2333. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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September 30, 2007



Loha Ben  
Primary Examiner